

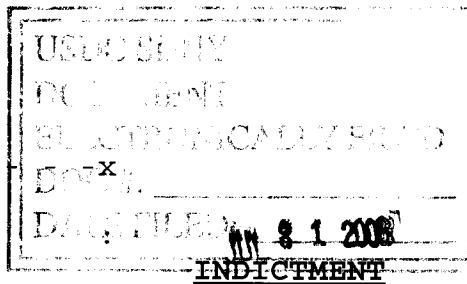
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

MARTIN SMELING NUNEZ,  
a/k/a "Chicho,"

Defendant.



08 Cr.

COUNT ONE

The Grand Jury charges:

1. From at least in on or about November 2007, up through and including at least in or about June 2008, in the Southern District of New York and elsewhere, MARTIN SMELING NUNEZ, a/k/a "Chicho," the defendant, and others known and unknown, unlawfully, intentionally, and knowingly did combine, conspire, confederate and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that MARTIN SMELING NUNEZ, a/k/a "Chicho," the defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, to wit, 100 grams and more of mixtures and substances containing a detectable amount of heroin, in violation of Title 21, United States Code, Sections 812, 841(a)(1), and 841(b)(1)(B).

3. It was a further part and an object of the conspiracy that MARTIN SMELING NUNEZ, a/k/a "Chicho," the

JUDGE COLE

defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, to wit, and 50 grams and more of mixtures and substances containing a detectable amount of cocaine base, in a form commonly known as "crack," in violation of Title 21, United States Code, Sections 812, 841(a)(1), and 841(b)(1)(A).

**OVERT ACTS**

4. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about November 2007, MARTIN SMELING NUNEZ, a/k/a "Chicho," the defendant, attended a cockfight in the Bronx, New York.

b. On or about January 10, 2008, MARTIN SMELING NUNEZ, a/k/a "Chicho," the defendant, participated in a sale of heroin.

c. On or about January 25, 2008, MARTIN SMELING NUNEZ, a/k/a "Chicho," the defendant, participated in a sale of heroin.

d. On or about June 23, 2008, MARTIN SMELING NUNEZ, a/k/a "Chicho," the defendant, participated in a sale of "crack" cocaine.

(Title 21, United States Code, Section 846.)

**FORFEITURE ALLEGATION**

5. As a result of committing the controlled substance offense alleged in Count One of this Indictment, MARTIN SMELING NUNEZ, a/k/a "Chicho," the defendant, shall forfeit to the United States pursuant to 21 U.S.C. § 853, any and all property constituting or derived from any proceeds the said defendant obtained directly or indirectly as a result of the said violation and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the violation alleged in Count One of this Indictment, including but not limited to a sum of money representing the amount of proceeds obtained as a result of the controlled substance offense for which the defendants are liable.

6. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

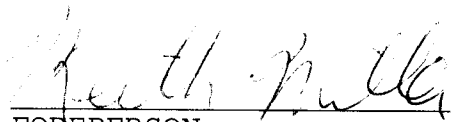
c. has been placed beyond the jurisdiction of the Court;

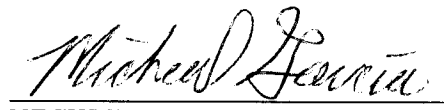
d. has been substantially diminished in value;  
or

e. has been commingled with other property which cannot be subdivided without difficulty; it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture

of any other property of said defendant up to the value of the above forfeitable property.

(Title 21, United States Code, Sections 841(a)(1) and 853.)

  
FOREPERSON

  
MICHAEL J. GARCIA  
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

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MARTIN SMELING NUNEZ,  
a/k/a "Chicho,"

Defendant.

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INDICTMENT

08 Cr.

(21 U.S.C. §§ 812, 841(a)(1), and  
841(b)(1)(A).)

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MICHAEL J. GARCIA  
United States Attorney.

A TRUE BILL

*Keith Miller*

Foreperson.

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*7/31/08 Filed Indictment.  
Case Assigned to Judge Cote  
& Maj. Judge Lag*